

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Ljubomir Antoncic et al.

Application No.: 10/552,562

Confirmation No.: 2564

Filed: October 11, 2005

Art Unit: 1626

For: PROCESS FOR THE PREPARATION OF
AMORPHOUS CALCIUM SALT OF
ATORVASTATIN

Examiner: S. J. Y. Loewe

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action dated July 28, 2008, in which the Examiner has required the election of a single species to which the claims shall be restricted if no generic claim is held to be allowable.

In response, Applicants provisionally elect with traverse to initially prosecute the species of Example 5 where the cyclic hydrocarbon solvent can be methylcyclohexane or cyclohexane.

Applicants have based the present Response on the currently-pending claims set forth in the Preliminary Amendment filed on October 10, 2005. Applicants note as a matter of courtesy that a Second Preliminary Amendment will be filed amending the currently pending claims.

It is believed that claims 2, 6, 11-12, 14, 22-24 and 27 are generic with respect to the above-elected species. Additionally, claims 10 and 13 are believed to read on the elected species.

Applicants traverse on the ground that a combined search and examination of all the claims can be conducted without serious burden to the Examiner. As set forth in MPEP § 808, under such circumstances, restriction is improper even if the claimed subject matter encompasses independent or distinct inventions. If the election of species requirement is maintained, Applicants note that consideration of additional species should take place upon allowance of a generic claim as provided by 37 C.F.R. § 1.141.

Should the Examiner have further questions or comments with respect to the examination of the present application, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account Nr. 04-0100.

Dated: August 27, 2008

Respectfully submitted,

By Norman B. Thot
Norman B. Thot

Registration No.: 47,993
DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, New York 10008-0770
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicants